



# PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT**

**BUILDING STRONG®**

**Reauthorization of Regional General  
Permit 63 for Repair and Protection  
Activities in Emergency Situations**

**Public Notice/Application No.:** SPL-2018-00038-CLH

**Project:** Repair and Protection Activities in Emergency Situations

**Comment Period:** February 8, 2018- March 8, 2018

**Project Manager:** Crystal L.M. Huerta; (805) 585-2143; [crystal.huerta@usace.army.mil](mailto:crystal.huerta@usace.army.mil)

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**Location**

In any jurisdictional waters of the United States throughout the Los Angeles District of the U.S. Army Corps of Engineers, including the coastal drainages of San Luis Obispo County, all of Santa Barbara, Ventura, Los Angeles, San Bernardino, Riverside, Orange, San Diego and Imperial counties, the eastern slopes of Inyo County, the eastern slopes of Mono County to the Conway Summit above Mono Lake, the southern slopes of the Tehachapi Mountains in Kern County, and all of the State of Arizona. In the event of future modifications to District boundaries, this permit would also apply in any areas so revised.

**Activity**

By this notice the U.S. Army Corps of Engineers, Los Angeles District, proposes to reauthorize Regional General Permit 63 (RGP 63) to provide an expedited response to public agencies and private parties for necessary emergency repair and protection measures in waters of the United States. These activities are reauthorized pursuant to Section 404 of the Clean Water Act and Section 10 of the River and Harbor Act of 1899, where there is a sudden, unexpected occurrence involving a clear and imminent threat to life or property (such as those situations that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately) demanding immediate action to prevent or mitigate loss of, or damage to life, health, property, or essential public services.

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Interested parties are hereby notified that the Los Angeles District is proposing to reissue a Department of the Army Permit for the activity described herein. Interested parties are invited to provide their views on the proposed work, which will become part of the record and will be considered in the decision. By providing substantive, site specific comments to the Corps Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 403) and Section 10 of the River and Harbors Act of 1899 (33 U.S. C.). Comments should be mailed to:

DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
ATTN: SPL-2018-00038-CLH

Ventura Field Office  
2151 Alessandro Drive, Suite 110  
Ventura, California 93001

Alternatively, comments can be sent electronically to: [crystal.huerta@usace.army.mil](mailto:crystal.huerta@usace.army.mil)

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

### **Evaluation Factors**

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water

quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

### **Preliminary Review of Selected Factors**

**EIS Determination**- A preliminary determination has been made an environmental impact statement is not required for the proposed work.

**Water Quality**- Within Los Angeles District, water quality certifications pursuant to Section 401 of the Clean Water Act are administered by the California State Water Resources Control Board (SWRCB) and the Arizona Department of Environmental Quality for non-tribal land, the EPA for tribal lands of Tribes not treated as States, and seven Native American Tribes that are treated as States for administration of water quality standards and Section 401 water quality certification. For Permittees on tribal lands, water quality certification must be received from the appropriate certifying agency or tribal representative. Previously, ADEQ and SWRCB has issued emergency 401 certifications procedures (SWRCB dated November 25, 2013 ADEQ dated October 24, 2013). The Corps requests these agencies reauthorize these emergency certification procedures.

For proposed projects within tribal lands, the prospective Permittee must receive water quality certification from the appropriate certifying agency or tribal representative to ensure that proposed actions do not exceed tribal water quality standards.

**Coastal Zone Management**- For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the Permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Management Program. For activities within the coastal zone that require a coastal development permit from the Commission, the Permittees should contact the Commission office to request an emergency permit, and no additional federal consistency review is necessary. For activities within the coastal zone that require a coastal development permit from a local government with a certified local coastal program, the Permittee should contact the appropriate local government. Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the Permittee should also contact Mark Delaplaine (415-904-5289), Federal Consistency Coordinator for the Commission, to determine the appropriate emergency procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the Permittee should also contact Mr. Delaplaine to determine appropriate emergency procedures.

**Essential Fish Habitat**- Prospective Permittees must investigate the potential impact of their proposed project on essential fish habitat and provide this information to the Corps prior to use of this RGP. If the Corps determines that a proposed project may affect essential fish habitat, general concurrence consultation with the National Marine Fisheries Service (NMFS) would be initiated. The District Engineer hereby requests NMFS concurrence or nonoccurrence with the proposal to reissue this RGP.

**Cultural Resources**- Most emergency responses are expected to address flooding events within active river or stream channels. As such, cultural resources present within the active river or stream channel would likely be destroyed or substantially affected by the flooding event and would therefore not likely qualify for inclusion on the National Register of Historic Places due to diminished integrity.

Some projects may affect upland areas adjacent to the project site and these areas are more likely to have extant cultural resources potentially eligible for inclusion on the National Register. The State Historic Preservation Officers of California and Arizona will have the opportunity to provide input to the District Engineer to address potential adverse effects on known cultural resources. Most projects would allow for input from resource and regulatory agencies prior to authorization under the RGP. However, a response to alleviate an imminent threat of loss of life or property may not allow for suitable prior resolution and some resources may be irretrievably lost.

**Endangered Species-** Numerous species listed as threatened or endangered under the Federal Endangered Species Act of 1972 (ESA) occur within the proposed Regional General Permit coverage area. Emergency actions that may affect listed species would require consultation pursuant to Section 7 of the ESA. In the event of an emergency that precludes pre-project Section 7 consultation under normal procedures, consultation under emergency procedures would be conducted. In the absence of an existing programmatic biological opinion or other demonstrated compliance with the Act, consultation under emergency procedures would typically include recommendations to avoid and minimize potential take of the species at the project site, and after-the-fact coordination with the U.S. Fish and Wildlife Service and/or National Marine Fisheries Service.

**Public Hearing-** Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

**Proposed Activity for Which a Permit is Required** –Discharges of dredged or fill material in Waters of the United States, including wetlands, and/or work or structures in Navigable Waters of the United States for necessary repair and protection measures associated with an emergency situation. An “emergency situation” is present where there is a clear, sudden, unexpected, and imminent threat to life or property demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property or essential public services (i.e., a situation that could potentially result in an unacceptable hazard to life or a significant loss of property if corrective action requiring a permit is not undertaken immediately).

### **Additional Project Information**

**Baseline information-** The Los Angeles District Regulatory Division has observed that emergencies resulting from weather-related events often require an immediate action that is not readily authorized under existing emergency permit procedures (33 CFR Part 325.2(e)(4)). In several instances, random events not related to weather required immediate cleanup operations for sewer spills, pipeline breaks, a sulfuric acid spill, inadvertent discharge of emulsified asphalt, and repair of flooded runway locator beacons. In addition, discharge of fill has been required to allow emergency access by firefighting equipment during wildfire events. Existing emergency permitting procedures require preparation of memoranda requesting implementation of emergency procedures, preparation of authorization letters to the Permittee, and extensive coordination with other federal and state agencies prior to permit issuance. In some cases, the prospective Permittee must also contact other agencies independently. Existing emergency permitting procedures also requires distribution of a public notice after the fact to announce issuance of the emergency authorization, receipt of comment letters on the public notice, and preparation of an environmental assessment of the actions taken. This process is onerous, time-consuming and could jeopardize public and private properties and human life unless foreshortened while still ensuring an adequate level of review and response.

The Los Angeles District understands emergency responses require a variety of methods to accomplish the necessary work. Responses expected to be employed under the proposed Regional

General Permit include discharge of rock riprap to protect roadways, embankment fills and bridge abutments; limited clearing of vegetation and/or sediment to allow for partial or complete redirection of flows within the existing riverplain to protect embankments or structures; construction of earthen berms using native material from within the watercourse by limited bulldozing; and clearing of accumulated sediment and debris from sediment/retention/detention/debris basins. The Los Angeles District has also observed the need for limited fills across minor drainages to facilitate access by property owners or by equipment and personnel during firefights common to the southern California area. This list is not inclusive and other means may be necessary for a particular situation. Furthermore, several of these activities, such as vegetation and debris clearing or excavation of sediments, may not be regulated by the Corps if the discharge of dredged or fill material is *de minimis* and incidental to the activity. However, certain methods (e.g. bulldozing) to effect these actions require prior authorization because they do result in a discharge of fill material.

The Los Angeles District also recognizes that some projects may require reconstruction of damaged structures in certain circumstances. This reconstruction would be authorized under the proposed Regional General Permit if deemed appropriate by the District Engineer or designated personnel. It is also noted that some reconstruction projects may be exempt from regulation at 33 C.F.R. 323.4(2).

Proposed Mitigation— RGP 63 would address immediate needs for emergency responses to unforeseen events such as large storms and wildfires. Impacts associated with these emergency actions are expected to be localized and relatively small in scope when taken in the context of adverse impacts to aquatic or other resources resulting from the stimulus of the emergency response. It is also expected that such work would be limited to the minimum amount necessary to alleviate the emergency situation, as determined by public agency staff and other Permittees, in conjunction with Regulatory Division personnel. Authorized projects may prevent the reestablishment of aquatic resource values in some circumstances, may result in adverse impacts downstream of the project area, or may have virtually no discernible effect. If the project results in adverse, long-term effects, the compensatory mitigation may be required at a minimum 1:1 ratio.

### **Proposed General Conditions**

1. **Time Period Covered:** This Regional General Permit shall expire on **[five years from date of reauthorization]**. Reauthorizations of this permit will likely be favorably considered as compliance with the reporting requirement on the part of the Permittees is demonstrated.
2. **Notification/Communication:**
  - a. **Timing:** The applicant must notify the District Engineer (DE) as early as possible and shall not begin the activity until notified by the DE that the activity may proceed under this RGP with any site-specific special conditions imposed by the District or Division Engineer. The Corps recognizes there may be situations where imminent threats to life or property occur and the applicant has not received a notice to proceed from the DE. It is not the intention of this office to imply that one allows such threat to life or property result in actual loss. If one proceeds without such notice from the DE, one must ensure that prior notice of such a unilateral decision to proceed is made to this office by telephone, facsimile, e-mail, delivered written notice or other alternative means.
  - b. **Contents of Notification:** The notification should be in writing and include the following information

- (1) The name, address, e-mail address and telephone number of the applicant and the designated point of contact and their address, e-mail address and telephone number;
  - (2) The location of the proposed project, including the identification of the waterbody(ies) (this should include a copy of a U.S. Geologic Survey [USGS] topographic map, electronic map images, annotated photographs, Thomas Guide map, or hand-drawn location map with suitable landmarks; the map should have sufficient detail to clearly indicate the location and extent of the project, as well as detailed directions to the site);
  - (3) A brief, but clear, description of the imminent threat to life or property and the proposed project's purpose and need;
  - (4) A description of methods anticipated to be used to rectify the situation ("field engineering" is not an adequate description. It is presumed if one mobilizes material and a particular piece of equipment to a site, then one probably has a fairly well-defined intention for that material and equipment. Photographs, visual renderings of the project, plans, drawings or sketches showing the area to be impacted, cross sections showing details of construction, if appropriate, and a short narrative describing how the work is to be completed should be provided as a minimum); and
  - (5) A brief description of the project area's existing conditions and anticipated environmental impacts resulting from the proposed work (amount of dredge or fill material, acreage of disturbance, removal of significant vegetation, loss of habitat, etc.).
- c. Form of Notification: The standard Application for Department of the Army Permit (Form ENG 4345), available from the District's website at [http://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit\\_Process/Eng4345\\_2012OCT.pdf](http://www.spl.usace.army.mil/Portals/17/docs/regulatory/Permit_Process/Eng4345_2012OCT.pdf), may be used as the notification and must include all of the information required in General Condition 2.b. Items (1)-(5) above. A letter, facsimile transmission or electronic mail may also be used.

In certain situations where there is an imminent threat to life or property and the applicant is unable to make direct contact with this office, a message shall be left on voice mail or an e-mail message shall be sent. Again, those messages should include the information identified in General Condition 2.b. Items (1)-(5) above. Formal written notification should be sent to this office as soon as possible.

- d. Agency Coordination: Upon receipt of a notification, the DE will immediately provide (i.e., by facsimile transmission, overnight mail, electronic mail or other expeditious manner) a copy to the offices of the Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), the Monterey Bay National Marine Sanctuary, the California Department of Fish and Wildlife (CDFW), the California State Water Resources Control Board (SWRCB), the Arizona Department of Environmental Quality (ADEQ), the Arizona Game and Fish Department, the Navajo Nation, the Hopi Tribe, the Hualapai Tribe, the White Mountain Apache Tribe; the Big Pine Paiute Tribe of Owens Valley, the Bishop Paiute Tribe, and the Twenty-Nine Palms Band of Mission Indians (collectively, "Tribes"), the California Regional Water Quality Control Boards (RWQCB), the California Coastal Commission (CCC), and the State and Tribal Historic Preservation Offices of California or Arizona (SHPO/THPO), as appropriate. These agencies will be requested to provide a response to the Corps Regulatory District's Project Manager as expeditiously as possible by telephone, facsimile transmission (fax) or e-mail, indicating whether they intend to provide substantive, site-specific comments

regarding the proposed project. If notified that comments will be provided by an agency or tribal representative, the DE will allow them to provide their comments in a short timeframe determined by the DE on a case-by-case basis to not likely result in loss of life or property before making a decision on the proposed project.

The DE will fully consider any comments received within the specified timeframe concerning the proposed activity's compliance with the conditions of the agency's authority, the need to impose terms and conditions to avoid and minimize adverse effects on aquatic resources, and the need for mitigation to reduce the project's adverse environmental effects to a minimal level. The DE will indicate the results of that consideration in the administrative record associated with the notification and will provide an informal response to the commenting agency by electronic mail, facsimile transmission or other means.

- e. **Mitigation:** Discharges of dredged or fill material into Waters of the United States must be avoided or minimized to the maximum extent practicable at the project site. Compensation for unavoidable discharge of fill materials may require appropriate mitigation measures. Factors that the DE will consider when determining the suitability of appropriate and practicable mitigation will include, but are not limited to:
  - 1) The approximate functions and values of the aquatic resource being impacted, such as habitat value, aquifer recharge, sediment conveyance or retention, flood storage, etc.;
  - (2) The permanence of the project's impacts on the resource; and
  - (3) The potential long-term effects of the action on remaining functions and values of the impacted aquatic resource.

To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing wetland or upland buffer zones to protect aquatic resource values; replacing the loss of aquatic resource values by creating, restoring, or enhancing similar functions and values; or using bioremediation techniques in conjunction with other methods to offset project impacts. To the extent appropriate, applicants should consider mitigation banking and other forms of mitigation, including contributions to wetland trust funds or in-lieu fees to organizations such as State, county or other governmental or non-governmental natural resource management organizations, where such fees contribute to the restoration, creation, replacement, enhancement, or preservation of aquatic resources.

- f. **District Engineer's Decision:** In reviewing the notification for the proposed activity, the DE will determine whether the activity would likely result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public's interest. The applicant may, as an option, submit a proposed mitigation plan with the notification to expedite the process and the DE will consider any mitigation (See General Condition 2.e. above.) the applicant has included in the proposal in determining whether the net adverse environmental effects for the proposed work are minimal. If the DE determines the activity complies with the terms and conditions of this RGP and the adverse effects are minimal, this office will notify the applicant and include any situation-specific conditions deemed necessary.

If the applicant elects to submit a mitigation plan as part of the proposed project, the DE will expeditiously review the proposed plan also. However, the DE may approve the mitigation proposal after the work is approved and project work has commenced.

If the DE determines the adverse effects of the proposed work are more than minimal, the DE will notify the applicant either:

- (1) That the project does not qualify for authorization under this RGP and instruct the applicant on the procedures to seek authorization under an individual permit or other general permit, or
- (2) That the project is authorized under this RGP subject to the applicant submitting a mitigation proposal that would reduce the adverse effects to the minimal level.

3. **Authorized Work:** Any work authorized by this RGP must be the minimum necessary to alleviate the immediate emergency, unless complete reconstruction only results in very minor additional impact to aquatic resources and logistical concerns indicate such reconstruction is as expedient considering the condition of the project site and is limited to in-kind replacement or refurbishment. Moderate upgrading would be considered if the applicant wishes to use bioremediation or other environmentally sensitive solutions. The RGP may NOT be used to upgrade an existing structure to current standards when that activity would result in additional adverse effects on aquatic resources, except in very limited circumstances. Such upgrade projects shall be considered separate activities for which other forms of authorization will be required.

Work not described in permit application documentation but deemed necessary after a field assessment is not authorized unless coordinated with the Regulatory project manager and acknowledged by appropriate means (i.e., e-mail or facsimile transmission, memo to the record, etc.). These coordinated permit modifications must also be described in sufficient detail in the post-project report (see RGP 63 General Condition 26).

4. **Start Work Date:** Any projects authorized under this RGP must be initiated within fourteen (14) days of receiving authorization to proceed. If the project start time can be delayed for more than two weeks, the imminent threat of impending loss may have diminished in magnitude, as well as immediacy, and generally would not meet the definition of an "emergency." However, there may be limited circumstances where, after notice to and input by the agencies, logistical considerations necessitate an extension beyond 14 days. Further, this RGP cannot be used to authorize long-planned-for projects, nor shall it be used for projects that are likely to have been known to the applicant but for which an application was not submitted in a timely manner. That is, the Corps and other agencies are not obligated to authorize work for a self-described emergency situation unless we agree that the situation qualifies as an emergency as defined on page 1.
5. **Access to Site:** You must allow representatives from this office and other agencies to inspect the authorized activity at any time deemed necessary to ensure the project is being or has been accomplished in accordance with the terms and conditions of this RGP.
6. **Tribal Rights:** No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
7. **Water Quality Certification:** Within the Los Angeles District, water quality certifications pursuant to Section 401 of the Clean Water Act are administered by the California State



Water Resources Control Board (SWRCB) and the Arizona Department of Environmental Quality (ADEQ) for non-tribal land, the U.S. Environmental Protection Agency for tribal lands of Tribes not treated as States, and seven Native American Tribes that are treated as States for Section 401 water quality certification. Section 401 water quality certification from the USEPA is pending as of the date of this permit. Permittees working on tribal land in Los Angeles District must receive individual Section 401 water quality certification from the EPA or one of the seven Tribes identified on page 3 as appropriate. Conditions of the pending water quality certification from the EPA will be incorporated when issued and the permit modified appropriately.

8. **Coastal Zone Management:** For those projects affecting uses or resources of the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that the Permittee obtain concurrence from the California Coastal Commission that the project is consistent with the State's certified Coastal Management Program. For activities within the coastal zone that require a coastal development permit from the commission, the Permittees should contact the Commission office to request an emergency permit, and no additional federal consistency review is necessary. For activities within the coastal zone that require a coastal development permit from a local government with a certified local coastal program, the Permittee should contact the appropriate local government. Because a coastal permit issued by a local agency does not satisfy the federal consistency requirements of the CZMA, the Permittee should also contact Larry Simon, Federal Consistency Coordinator for the Commission, at 415-904-5400 to determine the appropriate emergency procedures. For any activity outside the coastal zone, but with the potential to affect coastal uses or resources, or for any activity conducted by a federal agency, the Permittee should contact Larry Simon, Federal Consistency Coordinator for the Commission at 415-904-5400 to determine the appropriate emergency procedures.

Due to the often limited time constraints with emergency actions, the Corps would not require the Permittee to provide proof of review by the Commission, if such an action would result in undue harm to life or property. However, the Corps will require the Permittee to provide evidence of consistency upon completion of the project unless the Corps is already aware that a particular project, class of projects, or projects in a particular area described by the Commission, have received such determinations or waivers. Disposal of flood-delivered sediments into the marine environment is not authorized under RGP 63 due to potential adverse effects to the habitat and water quality. If such activity is proposed, it shall be addressed through other permitting procedures.

9. **Endangered Species:** No activity is authorized under this RGP which is likely to jeopardize the continued existence of a threatened or endangered species or destroy or adversely modify designated critical habitat as identified under the Federal Endangered Species Act (ESA). Authorization of an activity by the RGP does NOT authorize the "take" of a listed threatened or endangered species, as defined under the Federal ESA. The U.S. Fish and Wildlife Service and/or National Marine Fisheries Service may provide project-specific recommendations to avoid or minimize potential take of listed species or adverse modification of designated critical habitat. The Corps would remain the final arbiter regarding the degree to which the recommendations would be incorporated into the emergency authorization.

Information on the location of listed or proposed threatened or endangered species and their designated or proposed critical habitat can be obtained directly from the FWS or NMFS or from their websites at:

USFWS – <http://www.fws.gov/endangered/>  
NMFS – <http://www.nmfs.noaa.gov/pr/species/>

10. **Historic Properties:** Impacts to historic properties listed, proposed for listing, or potentially eligible for listing in the National Register of Historic Places will be avoided to the maximum extent practicable. If such resources are impacted because of actions authorized under this RGP, the permittee shall provide a full report of the action and the impacts incurred by the resource to this office within 45 days after completion of the action. The Corps, the State and Tribal Historic Preservation Officers, and/or the Advisory Council for Historic Preservation will then jointly make a determination as to appropriate procedures and/or mitigation to be addressed.

If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this RGP, you must immediately notify the Corps Regulatory Branch who will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

11. **Regional and Case-by-Case Conditions:** The activity must comply with any regional conditions added by the Division Engineer (see CFR Part 330.4(e)) and with any case-specific conditions added by the District Engineer.
12. **Erosion and Siltation Controls:** Every effort must be made to ensure any material dredged or excavated from Waters of the United States is not likely to be washed back into any Waters of the United States. When feasible, erosion and siltation controls, such as siltation or turbidity curtains, sedimentation basins, and/or straw bales or other means designed to minimize turbidity in the watercourse above background levels existing at the time of construction, shall be used and maintained in effective operating condition during construction unless conditions preclude their use, or if conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work. All exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation.
13. **Equipment:** When feasible, and if personnel would not be put into any additional potential hazard, heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance, such as use of wide-treaded equipment or floatation devices.
14. **Suitable Material:** No discharge of dredged or fill material may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts. (See Section 307 of the Clean Water Act).
15. **Wild and Scenic Rivers:** No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while that river is in an official study status, unless the appropriate Federal agency with direct management responsibility for that river has determined in writing that the proposed activity would not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., FWS, National Park Service, USDA Forest Service, Bureau of Land Management). Currently the

only designated Wild and Scenic River systems in the Los Angeles District are the main stem of Sespe Creek from its confluence with Rock Creek and Howard Creek downstream to where it leaves Section 26, T5N, R20W; the Sisquoc River from its origin to the Los Padres National Forest boundary in California; and the Verde River from the section line between Sections 26 and 27, T13N, R5E, Gila-Salt River meridian to the confluence of Red Creek with the Verde River within Section 34, T9 I/2N, R6E.

16. **Aquatic Life Movements:** No activity may substantially disrupt the movement of those species of aquatic life indigenous to the water body, including those species that normally migrate through the area. Culverts placed in streams must be installed to maintain low flow conditions.
17. **Shellfish Production:** No discharge of dredged or fill material may occur in areas of concentrated natural or commercial shellfish production, unless the discharge is directly related to a shellfish harvesting activity authorized by the Corps' Nationwide Permit (NWP) 4.
18. **Spawning Areas:** Discharges in spawning areas during spawning seasons must be avoided to the maximum extent practicable.
19. **Waterfowl Breeding Areas:** Discharges into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.
20. **Navigation:** No activity may cause more than a minimal adverse effect on the course or capacity of a navigable water. The permittee shall agree that, if future operations by the United States require the removal, relocation, or other alteration of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expenses to the United States. No claim shall be made against the United States on account of any such removal or alteration.
21. **Water Supply Intakes:** No discharge of dredged or fill material may occur in the proximity of a public water supply intake except where the discharge is for repair of the public water supply intake structures or adjacent bank stabilization.
22. **Obstruction of High Flows:** To the maximum extent practicable, discharges must not permanently restrict or impede the passage of normal or expected high flows or cause the relocation of the water except within the existing river plain unless the primary purpose of the fill is to impound waters.
23. **Adverse Effects from Impoundments:** If the discharge creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.
24. **Proper Maintenance:** Any structure or fill authorized by this RGP shall be maintained, including maintenance to ensure public safety, unless it is later determined that the structure is further contributing to other adverse conditions to private or public property. In such situations, corrective measures will be taken to rectify these adverse conditions, including removal and/or redesign of the original emergency corrective action, or appropriate

mitigation as determined through coordination with you and the appropriate Federal and State agencies. Temporary levees constructed to control flows shall not be maintained beyond the current storm season (i.e., maintenance of temporary levees is not authorized after the storm season in which the need arose).

25. **Removal of Temporary Fills:** Temporary fills shall be removed in their entirety and the affected areas returned to pre-existing elevations and revegetated with appropriate native riparian or wetland vegetation common to the area. If an area impacted by such a temporary fill is considered likely to naturally re-establish native riparian or wetland vegetation to a level similar to pre-project or pre-event conditions within two years, you will not be required to do so.
26. **Reports:** You shall provide a concise written report to this office as soon as practicable (within 45 days of completing the project) after completion of any action conducted under this RGP. PROVIDING THIS REPORT IS MANDATORY. This office has additional responsibilities pursuant to consultation with the FWS and NMFS under Section 7 of the ESA. Further, these reports enable us to track the use of this RGP to verify that the minimal effects determination is being met as required by Section 404(e) of the CWA. Failure to provide timely reports following responses to emergencies is non-compliance with the General Conditions of this RGP and would be considered a violation (33 CFR Part 326.4(d)).

At a minimum the Report shall include the following:

- I. The name, address, e-mail address and telephone number of:
  - a. the applicant, and
  - b. the applicant's agent (if appropriate)
- II. Full description of the activity including:
  - a. description of the emergency and the potential for loss of life or property;
  - b. purpose of the activity;
  - c. final goal of the entire activity;
  - d. location (e.g., latitude/longitude or UTM coordinates; section/township/range on appropriate USGS topo map; electronic map images; Thomas Guide map; or other source to accurately portray project location);
  - e. size and description of project area (include maps or drawings showing the areal and lineal extent of the project, and pre- and post-construction photographs);
  - f. quantities of materials used;
  - g. information on receiving waterbody impacted including:
    - (1) name of waterbody
    - (2) type of receiving waterbody (e.g., river/streambed, lake/reservoir, ocean/estuary/bay, riparian area, wetland type, etc.)
    - (3) temporary/permanent adverse impact(s) in acres/cubic yards/linear feet
    - (4) compensatory mitigation in acres/cubic yards/linear feet
    - (5) other mitigation steps (to avoid, minimize, compensate); and
  - h. information on federally listed or proposed endangered species or designated or proposed critical habitat (notification must be provided to FWS and/or NMFS as appropriate) including:
    - (1) temporary/permanent adverse impacts
    - (2) compensatory mitigation
    - (3) other mitigation steps (to avoid, minimize, compensate).

If there are a substantial number of projects and this requirement would consume large quantities of staff resources, the permittee may, as an option, submit a comprehensive report providing all of the information required in the notification condition (Item 2.b.) above. If a project was conducted in an area known to harbor Federally listed or proposed endangered species or designated or proposed critical habitat, a list of measures taken to minimize harm to the species and/or habitat and provide a copy of the report to the FWS and/or the NMFS, as appropriate, must also be included. If mitigation was determined to be appropriate for a specific project or group of projects, a mitigation proposal must be submitted to this office for review and approval. We will forward the report to the appropriate agencies for their review and comment.

We will forward the report to the appropriate agencies for their review and comment.

For additional information please call Crystal L.M. Huerta of my staff at (805) 585-2143 or via e-mail at [crystal.huerta@usace.army.mil](mailto:crystal.huerta@usace.army.mil). This public notice is issued by the Chief, Regulatory Division.



*Regulatory Program Goals:*

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
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